IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 1032 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 06/04/2004 in WP NO: 4905 OF 2004 on the file of the High Court.)

Between:

1. The Eastern Power Distribution Company Andhra Pradesh Limited
   rep. by its Divisional Electriacal Engineer Operation Circle,

Amalapuram East Godavari District.
2. The Superintending Engineer, APEPDC .Ltd., Rajahmundry.
   E.G,.District.
3. The Chairman and Manging Director, APEPDC. Ltd

Visakhapatnam

..... APPELLANTS

AND

Ch.V.M.Babu Rao Line Inspector,
Razole Rural

.....RESPONDENT

For the Appellants: Smt.E.URMILA, Advocate
For the Respondent No.: Mr.Ravi Kondaveeti

The Court made the following:

ORAL ORDER: (Per GB,J)

This writ appeal is filed by the Appellants aggrieved by the orders passed by learned single Judge in W.P.No.4905 of 2004, dated 06-04-2004.

2. The respondent who is working as lineman was placed under suspension by an order dated 04-03-2004 by the Divisional Electrical Engineer, (Operation), Amalapuram, on the ground that he has committed some grave lapses viz., he erected two poles and released service connection unauthorisedly at Katrenipadu Village, and that he is totally responsible for the above lapses. The learned single Judge considering the matter held that it is a selective suspension and the disciplinary authority did not exercise the independent power to place the petitioner under suspension and 1st respondent was directed to complete the enquiry within a period of two months from the date of receipt of a copy of the order. Against the said order, the present Writ Appeal has been filed.

3. The learned counsel for the appellant submits that the order of the learned single Judge is not sustainable in law inasmuch as the competency of the disciplinary authority has not been challenged. Moreover, the disciplinary authority has properly exercised the power conferred by Regulation II of the Erstwhile APSEB Discipline and Appeal Regulation as adopted by APEPDCL

and therefore the question of selective suspension does not arise. The learned counsel would also submit that though the disciplinary proceedings were initiated against the other officers who were found to be responsible for lapses, they need not be placed under suspension.

4. On the other hand the learned counsel for the respondent submits that the order of suspension was passed at the instance of superior officers, viz., the Superintending Engineer, and therefore the order is vitiated. He would also submit that the other officers connected with the alleged lapses were not suspended and therefore the order is a discriminatory one inasmuch as only the respondent was selected for suspension.

5. We have heard the learned counsel for the parties at length.

6. Pending disciplinary action the competent authority placed the respondent under suspension by an order dated
04-03-2004. It may be that the memo issued by the Superintending Engineer, dated 04-03-2004 suggested issuance of suspension order, but the power was exercised by the authority by virtue of the regulation, which was adopted by APEPDCL. In such a situation the question of illegality in the suspension order does not arise. Moreover the second ground on which the learned single judge set aside the suspension order is that the selective suspension was bad. We find the question of selective suspension does not arise in this case inasmuch as the gravity of misconduct differs from officer to officer. When the competent authority has exercised the power conferred on him, the learned single Judge ought not to have interfered with the suspension order unless the same suffers with patent lack of jurisdiction. In view of the above we set aside the order of the learned single judge and restore the order of suspension dated 04-03-2004. The appellants are directed to conduct the enquiry and complete the same as directed by the learned single Judge within a period of two months from today.

7. In the result, the Writ Appeal is allowed. No order as to costs.

G.BIKSHAPATHY, J

Dated: 07-07-2004

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B.SESHASAYANA REDDY, J

LSK

JOINT REGISTRAR

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SECTION OFFICER.

One Fair copy to the Hon'ble Sri Justice G.Bikshapathy (for his Lordship's kind perusal).

To

1. The Eastern Power Distribution Company Andhra Pradesh Limited
   rep. by its Divisional Electriacal Engineer Operation Circle,

Amalapuram East Godavari District.

2. The Superintending Engineer, APEPDC .Ltd., Rajahmundry.
   E.G,.District.
3. The Chairman and Manging Director, APEPDC. Ltd

Visakhapatnam

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THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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